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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,032	03/27/2006	Osamu Shimamura	NNA-248-B	8018
48980 7590 03/09/2010				
YOUNG BASILE				
3001 WEST BIG BEAVER ROAD				
SUITE 624				
TROY, MI 48084				
EXAMINER				
ARCTERO, ADAM A				
ART UNIT		PAPER NUMBER		
1795				
NOTIFICATION DATE		DELIVERY MODE		
03/09/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@youngbasile.com
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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/574,032

Applicant(s)

SHIMAMURA ET AL.

Examiner

ADAM A. ARCIERO

Art Unit

1795

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 3-16 and 20-27.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Dah-Wei D. Yuan/
Supervisory Patent Examiner, Art Unit 1795

/Adam A Arciero/
Examiner, Art Unit 1795

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments filed January 15, 2010 have been fully considered but they are not persuasive.

Applicant's principal arguments are:

- a) Hisamitsu refers to the pattern in which the layers are formed not a specific pattern for each layer (Claim 1).
- b) Delnick does not teach a separator which does not comprise a pattern of individual insulating particles with a plurality of interstitial spaces therebetween as can be seen in Fig. 3 (claim 1).
- c) Examiner is mistreating "consisting essentially of" in the claims (claim 1).

In response to Applicant's arguments, please consider the following comments.

a) Hisamitsu et al. teaches of an inkjet printing method for forming layers of a battery wherein each layer can have a predetermined pattern specific to said layer (pg. 5, [0055]-[0056] and Fig. 7c).

b) Fig. 3 is just a schematic drawing, not showing any details of the separator of Delnick. Delnick teaches of an electrolyte layer, comprising a separator structure having a plurality of individual insulating particles such as alumina or silica (col. 5, lines 36-57). Hisamitsu et al. does not disclose wherein the electrolytes occupy the interstitial spaces of the separator material. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the electrolytes of Delnick via ink-jet printing into the electrolyte layer formed by Hisamitsu et al. method because Delnick teaches that the electrolytes can be uniformly and accurately distributed throughout the interstitial spaces of the electrolyte layer. Furthermore, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

c) According to MPEP 2111.03, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising." Furthermore, Appellant's disclosure indicated that the claimed electrolyte layer can contain more than said individual insulating particles and electrolytes occupying the interstitial spaces between said particles (paragraphs [0167]-[0168] of the PGPub). Furthermore, there is no evidence that the presence of a binder would materially affect the basic and novel characteristic of the claimed invention. Claim 7 which depends off of claim 1 further limits the pattern of individual insulating particles with electrolytes occupying the interstitial spaces wherein the individual insulating particles further comprise olefin resins, therefore the phrase "consisting essentially of" cannot be treated as close-ended.